THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Arbitration Application No. 03 of 2006

1. Tehri Hydro Development Corporation Ltd.
   Through its Managing Director A-10, Sector 1
   Kribhko Bhawan, Noida (U.P.)
2. AGM (BCM), THDC Tehri
   (Engineer-In-charge)

…**Petitioners**.

Versus

M/s Rapti Constructors near Head Post
Office Mooldhar, New Tehri town,
Uttaranchal.

…**Respondent**.

Sri U.K. Uniyal, Sr.Adv. assisted by Sobhit Saharia, learned counsel for the petitioners.
Sri S.K. Jain, Learned Counsel for the respondent.

Dated March 29, 2006

PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel.

The applicants have filed the objection through this Arbitration Application No. 03 of 2006 before this Court.

This objection was filed before this Court for a relief to set aside the Award dated 28-2-2005, whereby the sole arbitrator in the matter pertaining to the dispute in respect of contract agreement no. 01/DYGM/TU-II/B & R/LOA 1212/THDC/96-97 for construction of quarters at Bhagirathi Puram, New Tehri Uttaranchal awarded additional amount of Rs. 10,41,833/- as mentioned in the Award.

The objection under Section 34 of the Abitration and Conciliation Act, 1996 **(For short the Act)** can only be filed before the principal civil court as defined in Section 2(e) of the Act, which

reads "Court" means the principal civil Court of original jurisdiction in a district, and included the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil Court of a grade inferior to such principal civil Court, or any Court of Small Causes".

Section 34 of the Act provides for application for setting aside arbitral award on the grounds mentioned therein and as per provisions of sub-section (3) of Section 34 an application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal: Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

No objection has been filed before the principal civil Court for setting aside the award under Section 34 of the Act. The High Court of Uttaranchal has no original jurisdiction in this regard. Hence the application/objection under Section 34 of the Act is not maintainable.

The application is hereby rejected.

(B.S.Verma,J.)

RCP